

IN THE HIGH COURT OF JUDICATURE AT BOBBY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 4530 OF 2004

Ms. Chandrika S. Shah ..Applicant.

V/s.

M/s. Wipro Finance Ltd. & Anr. ..Respondents.

Shri M.B.Shirsat for the Applicant.

Shri Dinesh Dube for Respondent No.1.

Shri S.R. Shinde, APP for Respondent No.2.

CORAM : A.M.KHANWILKAR, J.

DATED : DECEMBER 22, 2004

PC :-

1. This matter was listed yesterday and was argued; When Shri Dinesh Dube, the counsel for Respondent No.1 requested that the matter may be kept back to cite decision on the basis of which the present application could be decided. That indulgence was shown and the matter was kept today. Today, when the matter was called out, none appears for Respondent No.1.

2. The short question involved in the present petition is: whether any case is made out against the present applicant to indicate her complicity in the commission of the offence committed by the Company.

The only allegation that can be discerned, even on fair reading of the complaint, is that, the applicant was director of the accused company and at all material times, responsible to and incharge of the business of the accused company, attending day to- day business of the accused company. It is not in dispute that the applicant is not signatory to the cheque in question. Recently, I had occasion to consider the question as is required to be considered in the present application, in the case of Madanlal Taparia & Anr. vs. The Bank of Rajasthan Ltd. & Anr. in criminal writ petition No. 2241/2004 decided on 14th December, 2004. It is well settled that merely because the person is director of the accused company, does not make him liable for the offence committed by the Company. Something more has to be alleged and established, which is clearly lacking in the present complaint. In other words, no material facts are alleged in the complaint as filed, so as to make the applicant liable within the meaning of section 141 of the Act. Accordingly, this application succeeds and the same is allowed in terms of prayer clause (a) to the extent of applicant- accused No.3 only.

3 . Ordered accordingly.

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